



Mayor's Office of the
Chief Technology Officer

March 28, 2018

Ajit Pai
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Chairman Pai:

I appreciate the opportunity to have served on the Broadband Deployment Advisory Committee's (BDAC) Model Code for Municipalities Working Group over the past 11 months. Along with my designated alternates, we have collectively participated in approximately 100 hours of calls, attended a full day in-person meeting in Washington D.C., and have submitted countless edits, drafts, and comments in an effort to share insights from our many decades-long successful experience in franchising wired and wireless uses of New York City's public rights-of-way. As the BDAC's process is scheduled to come to a close, it is clear that despite good faith efforts by both the staff and members involved, the membership structure and meeting format of the BDAC has skewed the drafting of the proposed recommendations towards industry priorities without regard for a true public-private partnership. These circumstances give me no choice but to step away from this committee in order to direct the City's energy and resources to alternative forums that provide more productive opportunities for achieving the kind of cooperative progress in advancing broadband deployment in the public interest.

I have expressed concerns with other municipal colleagues in multiple meetings and documents that the makeup of the BDAC, with roughly 75 percent of members representing large telecommunications and cable companies or interests aligned with those companies, would result in recommendations unfavorable to localities looking to responsibly manage public rights-of-way to promote public safety, quality of life, and other priorities. This has resulted in the BDAC producing pre-packaged one-size-fits all proposals that industry lobbyists have pushed nationwide rather than working in a cooperative fashion to find creative solutions to dynamic local issues. In our own working group, there have been no efforts to add more voices familiar with city operations or to replace the former working group Vice Chair San Jose Mayor Sam Liccardo. This has prevented us from addressing the diversity of concerns and solutions that would be offered by a better representation of the nearly 40,000 local governments nationwide. I am concerned that the current draft of the code could lead to municipalities entering into agreements with wireless providers that are counter to the interests of their constituents. Most importantly, we do not believe that the recommendations will help close the digital divide.

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Therefore, we are not able to recommend that a municipality adopt the code without significant legal and financial analysis or for it to be referenced as a “model” for legislatures, the FCC, or other regulatory bodies.

Despite our objections to the operations and findings of the BDAC, we remain committed to working with all parties to address the digital divide. Mayor Bill de Blasio has set the ambitious goal to provide affordable, high-speed internet to all New Yorkers by 2025 and it is imperative that we engage in productive and respectful partnerships with the private sector to reach that goal.

In addition, we have found it useful to engage and share information and best practices with other cities. In this regard, Mayor de Blasio, along with over a dozen other mayors, recently announced a pledge to promote the principles of net neutrality through our local authority. This nationwide partnership, which is growing daily, can also serve as an important network to share best practices on issues around broadband deployment.

We remain open to working with the FCC and other branches of the federal government as well as the telecom industry, digital equity advocates, organized labor and other key stakeholders. Note that I will be departing from City service in the upcoming weeks, however the City had chosen not to designate a replacement in my absence for the reasons listed above. Thank you again for the opportunity to work on this issue on a national level, and we hope to work with you again in a more productive forum.

Sincerely,

A handwritten signature in black ink, appearing to read 'Miguel Gamiño Jr.', with a long horizontal stroke extending to the right.

Miguel Gamiño Jr.

Chief Technology Officer, City of New York

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